



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: July 9, 2009

Agenda Item No. 10: Public Hearing: Issuance of an Order to Comply to Chile Bar Slate Mine (CA Mine ID #91-09-0004), Placerville Industries, Inc. (Operator), Brett Davis (Agent), County of El Dorado, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

INTRODUCTION: The State Mining and Geology Board (SMGB) acts as the lead agency pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code (PRC) Section 2710 et seq.) for all surface mine operations in the County of El Dorado. Following conduct of a site inspection performed on December 30, 2008, one violation was identified for failure to provide a current financial assurance cost estimate as required by Title 14, California Code of Regulations (CCR), Section 3804. A Notice of Violation was issued by the Executive Officer on January 16, 2009. At its May 14, 2009, regular business meeting, the SMGB issued an Order to Comply. The SMGB is presently considering upholding the Order to Comply.

STATUTORY AND REGULATORY AUTHORITY: In situations where a surface mine site does not have an adequate reclamation plan or financial assurance, PRC Section 2770(d) states:

"The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval..."



Executive Officer's Report

PRC Section 2773.1(a)(3) also states:

“The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.”

PRC Section 2774.1(a) further states:

“Except as provided in subdivision (i) of Section 2770, if the lead agency or the director determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the mining operation, that a surface mining operation is not in compliance with this chapter, the lead agency or the director may notify the operator of that violation by personal service or certified mail. If the violation extends beyond 30 days after the date of the lead agency's or the director's notification, the lead agency or the director may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further mining activities.”

Finally, CCR Section 3804(c) states:

“In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under 3804(a).”

BACKGROUND: The Chile Bar Slate Mine is situated along the south side of the south fork of the American River to the northwest of Placerville in El Dorado County. Highway 193 borders the site to the west. The mine site encompasses approximately 40 acres. Two areas have been leased adjacent to the northern property boundary. Lease Area 1 encompasses approximately 0.6 acres and addresses potential setback issues, encroachment of structures, and includes equipment storage and boneyard areas. Lease Area 2 encompasses approximately 1.2 acres and includes off-site overburden placement and boneyard areas. A benchmark is established immediately south of the entrance to the site at an elevation of approximately 965 feet above mean sea level (msl).

The site is occupied by a northwest-facing quarry face, equipment storage and former truck scale area on the quarry floor, material processing and product storage facility, fuel storage and containment area, boneyard areas, and a sediment settling pond. Minor amounts of



weathered topsoil material are situated immediately adjacent to the highest bench above the highwall, whereas, waste rock and overburden is stockpiled primarily on the northeastern portion of the quarry floor.

Quarried material from the site is primarily processed to a fine-grained product, specifically for the asphalt sealant and seal coat industries, with a subordinate amount of material sold for other purposes. Once blasted or ripped, on-site operations include crushing, drying and pulverizing the material, which is then sized to specifications before being bagged or loaded in bulk containers for shipping.

The northwest-facing highwall is on the order of 300 feet in height. The eventual planned highwall height is about 600 feet. Historic slope areas are exposed on the surface of the highwall and characterized by voids and/or horizontally oriented slate fragments. Exposed rock is characterized as a dark gray carbonaceous (i.e. graphitic) slate of the Mariposa Formation. Weathered brown slate of the same formation is also present in the middle and upper portions of the quarry face. Minor amounts of metavolcanics referred to as greenstone (metamorphosed diorite) and some tuffs and graywackes are also present.

A chronology of pertinent events and actions pertaining to recent activities is as follows:

October 2000	Existing Reclamation Plan was deemed inadequate and deficient in several areas. The Reclamation Plan did not reflect operations currently being performed at the site in regards to activities, their relative locations, practices, and performance standards. Performance standards provided were minimal.
October 2001	Concurrent with the October 2001 annual inspection, a draft "Amended Reclamation Plan for the Chile Bar Slate Mine" was provided for review and information.
April 11, 2002	Following review by the SMGB Surface Mining Standards Committee, and subsequent revision, another version of the Reclamation Plan dated August 12, 2002, was prepared.
Nov. 14, 2002	SMGB approved revised Financial Assurance Cost Estimate in the amount of \$200,389.
Sept. 11, 2003	SMGB approved revised Reclamation Plan dated August 25, 2003.



Following the annual inspection conducted by SMGB staff on December 30, 2008, one violation was noted regarding the lack of a current financial assurance cost estimate for the site. Financial assurances for reclamation of the Chile Bar Slate Mine are currently established in the form of two certificates of deposit in the total amount of \$200,389.00. Such amount is not deemed adequate at this time as over six years has elapsed since calculation and approval of this amount. The financial assurance requires adjustment to reflect existing site conditions and current equipment and labor rates.

On January 16, 2009, the operator was sent a Notice of Violation (NOV) by Certified Mail, which was received by the operator on January 27, 2009. According the NOV the operator was required to submit, within 45 days of receipt of the NOV (on or about March 13, 2009), a revised financial assurance cost estimate for the Chile Bar mine site.

On January 29, 2009, the operator contacted SMGB staff by telephone to discuss the NOV and requirements for compliance. Following this conversation, on January 30, 2009, SMGB staff sent the operator copies of the most recently approved financial assurance cost estimate for the site (dated October 11, 2002), and also provided information regarding the availability of the SMGB's Financial Assurance Guidelines.

On March 4, 2009, the operator requested a one month extension (on or about April 13, 2009) to allow for time to prepare and submit a revised financial assurance cost estimate for the Chile Bar Slate Mine. As of May, no adjusted financial assurance cost estimate has been received. At its May 14, 2009, regular business meeting, the SMGB issued an Order to Comply.

To date, no adjusted financial assurance cost estimate has been received.

CONSIDERATION BEFORE THE SMGB: The SMGB must determine if the operator is in violation of SMARA and the SMGB's regulations for failure to provide an adjusted financial assurance cost estimate, and whether the Operator has shown good faith in complying with the SMGB's NOV.

EXECUTIVE OFFICER'S RECOMMENDATION: As of the date of the preparation of this Executive Officer's Report, no revised financial assurance cost estimate has been presented to the SMGB. The Executive Officer recommends that the SMGB issue an Order to Comply to Mr. Brett Davis, agent of record for Placerville Industries, Inc., operator of the Chile Bar Slate Mine, to provide a revised financial assurance cost estimate that accurately reflects current site conditions and current equipment and labor rates. These actions must be taken within 30 days of receipt of the Order to Comply. Failure to comply with the requirements of the Order may subject the operator to Administrative Penalties in an amount up to \$5,000 per day.



SUGGESTED MOTION LANGUAGE:

To consider issuance of an Order to Comply:

Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board uphold the Order to Comply to Mr. Brett Davis, agent of record for Placerville Industries, Inc., operator of the Chili Bar Slate Mine (CA Mine ID #91-09-0004), and request that the operator provide the SMGB with an adjusted financial assurance cost estimate, that reflects current site conditions and current equipment and labor rates, for reclamation of the Chile Bar Slate Mine surface mining operation, within 30 days of this Order.

Respectfully submitted:

Stephen M. Testa
Executive Officer

